

DETAILED ACTION

Status of Claims

1. This action is in reply to the Response to the Restriction filed on May 14, 2008.
2. Claims 1-45 and 55-61 have been canceled.
3. Claims 46-54 (Group V) were elected without traverse.
4. Claims 46-54 are currently pending and have been examined.

Information Disclosure Statement

5. The Information Disclosure Statements filed on June 4, 2004 and July 2, 2004 have been considered. Initialed copies of the Form 1449 are enclosed herewith.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claims 46-51** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Carmichael**, 1992 in view of **Mercer** et al., U.S. Patent Application Publication Number 2004/0088228 A1.

Claim 46:

Carmichael discloses the limitations of:

- *notifying the party of an audit of the asset* (see at least Carmichael, Page 2, Paragraph 1 ("During the 90-day period, the floorplan finance company checks the dealer's 'floor' every 30 days to determine what merchandise has been sold. This method of ensuring that the dealer meets his flooring obligation is known as 'pay-as-sold.'")); and
- *determining that the second party is complying or not complying with the agreement based on the audit information* (see at least Carmichael, Page 2,

Paragraph 1 ("During the 90-day period, the floorplan finance company checks the dealer's 'floor' every 30 days to determine what merchandise has been sold. This method of ensuring that the dealer meets his flooring obligation is known as 'pay-as-sold.'").

Carmichael does not disclose, but **Mercer**, however, does disclose:

- requiring the party to electronically read at least one identification tag associated with the audit (see at least Mercer, Paragraph 0011 ("An RFID tag encoded with vehicle-specific information may be attached to or embedded in both the window sticker and key tag label for identification and tracking purposes."); Paragraph 0033; Paragraph 0045; and Paragraph 0046); and
- requiring the party to send audit information based on the at least one identification tag to the first party (see at least Mercer, Paragraph 0011; Paragraph 0012 (Data regarding the location of a vehicle is transmitted.)).

It would have been *prima facie* obvious to one of ordinary skill in the art at the time of the invention to incorporate Mercer's method of using RFID tags to track vehicles with Carmichael's method of floor plan financing. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of making it easier and more efficient for lenders in floor plan financing to determine whether a vehicle has been removed from the dealership of the borrower. If a vehicle has been removed from a dealership, then that signifies that the vehicle has been sold and a payment is due to the lender.

Claim 47:

Carmichael further discloses:

- wherein the asset is a vehicle (see at least Carmichael, Page 1, Paragraph 1 ("Floorplanning is the financing of dealer or distributor inventory by either a finance company or a bank. This type of inventory financing has been in existence for many years, particularly in the automotive [industry].")).

Claim 48:

Carmichael further discloses:

- wherein the party to the agreement is a vehicle dealer (see at least Carmichael, Page 1, Paragraph 1 ("Floorplanning is the financing of dealer or distributor inventory by either a finance company or a bank. This type of inventory financing has been in existence for many years, particularly in the automotive [industry].")).

Claim 49:

Carmichael further discloses:

- *wherein the agreement is a financing agreement* (see at least Carmichael, Page 1, Paragraph 1 (“Floorplanning is the financing of dealer or distributor inventory by either a finance company or a bank. This type of inventory financing has been in existence for many years, particularly in the automotive [industry].”)).

Claim 50:

Carmichael does not disclose, but **Mercer**, however, does disclose:

- *wherein the at least one identification tag includes a radio frequency identification tag* (see at least Mercer, Paragraph 0011 (“An RFID tag encoded with vehicle-specific information may be attached to or embedded in both the window sticker and key tag label for identification and tracking purposes.”); Paragraph 0046; Paragraph 0057; and Paragraph 0058).

It would have been *prima facie* obvious to one of ordinary skill in the art at the time of the invention to incorporate Mercer’s method of using RFID tags to track vehicles with Carmichael’s method of floor plan financing. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of making it easier and more efficient for lenders in floor plan financing to determine whether a vehicle has been removed from the dealership of the borrower. If a vehicle has been removed from a dealership, then that signifies that the vehicle has been sold and a payment is due to the lender.

Claim 51:

Carmichael does not disclose, but **Mercer**, however, does disclose:

- *wherein the at least one identification tag includes a bar code* (see at least Mercer, Paragraph 0046 (“The handheld computing device 102 is preferably a pocket PC containing a bar code scanner/reader and an RFID tag reader.”); Paragraph 0050; and Paragraph 0056).

It would have been *prima facie* obvious to one of ordinary skill in the art at the time of the invention to incorporate Mercer’s method of using a bar code on identification tags to track vehicles with Carmichael’s method of floor plan financing. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of making it easier and more efficient for lenders in floor plan financing to determine whether a vehicle

has been removed from the dealership of the borrower. If a vehicle has been removed from a dealership, then that signifies that the vehicle has been sold and a payment is due to the lender.

8. **Claim 52** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Carmichael**, 1992 in view of **Mercer** et al., U.S. Patent Application Publication Number 2004/0088228 A1, and further in view of **Hull** et al., U.S. Patent Application Publication Number 2004/0041707 A1.

Claim 52:

Carmichael does not disclose, but **Hull**, however, does disclose:

- *wherein the audit information comprises a hash* (see at least Hull, Paragraph 0057 (A hash code is incorporated in a RFID tag.)).

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate Hull's method of using RFID tags with a hash code to track vehicles with Carmichael's method of floor plan financing. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of making it easier and more efficient for lenders in floor plan financing to determine whether a vehicle has been removed from the dealership of the borrower. If a vehicle has been removed from a dealership, then that signifies that the vehicle has been sold and a payment is due to the lender.

9. **Claims 53 and 54** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Carmichael**, 1992 in view of **Mercer** et al., U.S. Patent Application Publication Number 2004/0088228 A1, and further in view of **Adams** et al., U.S. Patent Application Publication Number 2003/0031819 A1.

Claim 53:

Carmichael does not disclose, but **Adams**, however, does disclose:

- *wherein each of the at least one identification tag is fraud resistant* (see at least Adams, Paragraph 0005).

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate Adams' method of using fraud resistant RFID tags to track vehicles with Carmichael's method of floor plan financing. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of making it easier

and more efficient for lenders in floor plan financing to determine whether a vehicle has been removed from the dealership of the borrower. If a vehicle has been removed from a dealership, then that signifies that the vehicle has been sold and a payment is due to the lender. Furthermore, it would be obvious to make the tags tamper proof in order to prevent fraud such as the removal of the tag from the vehicle and making it appear that the vehicle has not been sold and is still located at the dealership.

Claim 54:

Carmichael does not disclose, but **Adams**, however, does disclose:

- wherein each of the at least one identification tag is self-destructing (see at least Adams, Paragraph 0005).

It would have been *prima facie* obvious to one of ordinary skill in the art at the time of the invention to incorporate Adams' method of using fraud resistant RFID tags to track vehicles with Carmichael's method of floor plan financing. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of making it easier and more efficient for lenders in floor plan financing to determine whether a vehicle has been removed from the dealership of the borrower. If a vehicle has been removed from a dealership, then that signifies that the vehicle has been sold and a payment is due to the lender. Furthermore, it would be obvious to make the tags tamper proof in order to prevent fraud such as the removal of the tag from the vehicle and making it appear that the vehicle has not been sold and is still located at the dealership.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth Rosen whose telephone number is 571-270-1850. The examiner can normally be reached on Monday - Friday, 8:30 am-6:00 pm est, alt Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Abdi can be reached at 571-272-6702. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you

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have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nga B. Nguyen/

Primary Examiner, Art Unit 3692